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STATE FOR EUR/PGI AND EUR/ERA
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E.O. 12958: DECL: 03/06/2018
TAGS: [PGOV](#) [KPAO](#) [CMGT](#) [CVIS](#) [PREL](#) [PTER](#) [UK](#)
SUBJECT: UK COUNSELS PATIENCE ON VISA WAIVER PROGRAM
NEGOTIATIONS WITH THE EU

REF: SECSTATE 21769

Classified By: Political Minister Counselor Maura Connelly for reasons
1.4 (b) and (d)

11. (c) Summary. HMG recognizes the issue of legal competency between the EU Commission and member states in the area of visa policy is "complicated," but London supports extension of the U.S. Visa Waiver Program (VWP) to other EU members and wants to complete its own bilateral visa MOU with USG as soon as possible, according to officials at the Home Office and Foreign Office. In response to ref demarche, these officials said the UK will quietly work to avoid a "Mexican standoff" over VWP issues between the Commission and EU members and they encouraged the USG to move forward in bilateral negotiations with EU members, but to be patient while the EU and member states work out the issues of legal competency. End Summary.

Home Office Response

12. (C) In response to ref, Tom Dodd of the Home Office (the HMG ministry with the lead on visa policies) told the Consul General on March 5 that the UK supports extension of the VWP to other EU members. The UK also wants to complete its own new MOU with the USG on the VWP as soon as possible. (Embassy note. Discussions on the U.S.-UK VWP MOU are already underway and the subject was discussed during Home Secretary Jacqui Smith's meeting with Secretary Chertoff in Washington last month. End note). Dodd said that the issue of EU versus member State competency in this area is complicated -- on some issues, such as sharing of PNR data, the EU has legal authority to bind members and the UK does not want to challenge that, for example.

13. (C) On the issue of negotiating MOUs with current and prospective VWP participants, Dodd urged patience. The UK will use its influence to find pragmatic solutions that will recognize that the EU has a "legal right" to negotiate on some immigration issues on behalf of members while the members retain sovereign rights in other areas as well. The UK objective, Dodd said, is to avoid a "Mexican standoff" over the VWP issue between the Commission and member states. Dodd cautioned, however, that the UK's ability to publicly press on VWP issues is limited because the UK is not a part of the Shengen border arrangements. Dodd reiterated that the legal issues are complex, the distinctions between EU and member state competencies is not always clear, and there is a role for the EU Commission that needs to be taken into account as negotiations on bilateral MOUs proceed.

FCO: We Want Our Own Bilateral MOU

¶4. (C) The Head of the Foreign Office's Americas Section Paul Welsh echoed Dodd's comments in a separate March 5 meeting to discuss ref demarche with the Consul General, PolCouns, and Homeland Security Attache. Welsh, joined by Mike Grace, the FCO's U.S.-EU officer, reiterated that the UK wants to complete its own VWP MOU with the USG as soon as possible, so the FCO approaches the issue of individual EU member states' authority to enter into visa-related MOUs with the USG from that perspective. Welsh said the Foreign Office recognizes that the EU Commission has competency in "certain aspects" of visa policy and the UK wants to make sure EU members do not "get into cross purposes" with the Commission in negotiating MOUs with the USG. Welsh repeated Dodd's comment that the UK's ability to publicly influence intra-EU discussions on this issue is somewhat limited because the UK is not a Shengen participant.

Comment

¶5. (C) Both Dodd and Welsh made clear that HMG, which wants to finalize a new bilateral VWP MOU that includes provisions on Advance Travel Authorization, will be respectful of EU Commission claims to authority in this area but is not going to support any division of authority that would limit Member states' power to enter into bilateral VWP MOUs.

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